

# **EXHIBIT D**



**U.S. Department of Justice**  
Office of Information Policy  
Suite 11050  
1425 New York Avenue, NW  
Washington, DC 20530-0001

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Telephone: (202) 514-3642

Ms. Rebecca Hersher  
National Public Radio, Inc.  
1111 North Capitol Street NE  
Washington, DC 20002  
[rhersher@npr.org](mailto:rhersher@npr.org)

Re: Appeal No. DOJ-AP-2018-007610  
Request No. 1403613-000  
CDT:PJA

**VIA: FOIAonline**

Dear Ms. Hersher:

You appealed from the action of the Federal Bureau of Investigation on your Freedom of Information Act request for access to video recordings of ballistics tests conducted with handgun and rifle ammunition fired into ballistics gelatin. Specifically, you requested video recordings of ballistic tests relating to ammunition in multiple calibers and cartridges including, but not limited to the following: 9 mm full metal jacket, 9 mm expanding<sup>1</sup>, .22 full metal jacket, and .223 full metal jacket. I note that your appeal concerns the FBI's full denial of your request.

After carefully considering your appeal, I am affirming the FBI's action on your request. The FOIA provides for disclosure of many agency records. At the same time, Congress included in the FOIA nine exemptions from disclosure that provide protection for important interests such as personal privacy, privileged communications, and certain law enforcement activities. The FBI properly withheld this information in full because it is protected from disclosure under the FOIA pursuant to 5 U.S.C. § 552(b)(7)(E) and it is reasonably foreseeable that disclosure of this information would harm the interests protected by this provision. This provision concerns records or information compiled for law enforcement purposes the release of which would disclose techniques and procedures or guidelines for law enforcement investigations or prosecutions.

Please be advised that this Office's decision was made only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and analyzed your appeal, your underlying request, and the action of the FBI in response to your request.

If you are dissatisfied with my action on your appeals, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

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<sup>1</sup> Your reference to ".9mm" in your appeal letter appears to be a typo.

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For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; email at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769. If you have any questions regarding the action this Office has taken on your appeal, you may contact this Office's FOIA Public Liaison for your appeal. Specifically, you may speak with the undersigned agency official by calling (202) 514-3642.

Sincerely,

9/28/2018

X 

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Sean R. O'Neill

Chief, Administrative Appeals Staff

Signed by: OIP